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11 Counsel for Plaintiff

12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14 UNITED STATES OF AMERICA,)
15 Plaintiff,)
16 v.) 2:13-CV-049-APG-(CWH)
17 \$50,000.00 IN UNITED STATES)
18 CURRENCY,)
19 Defendant.)

20 **SETTLEMENT AGREEMENT, STIPULATION FOR ENTRY OF JUDGMENT OF**
21 **FORFEITURE AS TO OLIVER JAMES KWAN, AND ORDER**

22 The United States of America (“United States”), by and through Daniel G. Bogden, United
23 States Attorney for the District of Nevada, and Michael A. Humphreys, Assistant United States
24 Attorney, and OLIVER JAMES KWAN and his counsel, David Z. Chesnoff, Esq. and Richard A.
25 Schonfeld, Esq., respectively, stipulate as follows:

26 1. This case is a civil forfeiture action seeking to forfeit \$50,000.00 in United States Currency
27 under Title 21, United States Code, Section 881(a)(6).

28 2. OLIVER JAMES KWAN knowingly and voluntarily agrees to the civil judicial forfeiture
29 of the \$50,000.00 in United States Currency.

1 3. OLIVER JAMES KWAN knowingly and voluntarily agrees to forfeit the \$50,000.00 in
2 United States Currency to the United States.

3 4. OLIVER JAMES KWAN knowingly and voluntarily agrees to relinquish all right, title,
4 and interest in the \$50,000.00 in United States Currency.

5 5. OLIVER JAMES KWAN knowingly and voluntarily agrees to waive his right to any civil
6 judicial forfeiture proceedings ("proceedings") concerning the \$50,000.00 in United States Currency.

7 6. OLIVER JAMES KWAN knowingly and voluntarily agrees to waive service of process of
8 any and all documents filed in this action or any proceedings concerning the \$50,000.00 in United
9 States Currency arising from the facts and circumstances of this case.

10 7. OLIVER JAMES KWAN knowingly and voluntarily agrees to waive any further notice to
11 him, his agents, or his attorneys regarding the forfeiture and disposition of the \$50,000.00 in United
12 States Currency.

13 8. OLIVER JAMES KWAN knowingly and voluntarily agrees not to file any claim, answer,
14 petition, or other documents in any proceedings concerning the \$50,000.00 in United States Currency.

15 9. OLIVER JAMES KWAN knowingly and voluntarily agrees to withdraw any claims,
16 answers, counterclaims, petitions, or other documents they filed in any proceedings concerning the
17 \$50,000.00 in United States Currency.

18 10. OLIVER JAMES KWAN knowingly and voluntarily agrees to waive the statute of
19 limitations, the CAFRA requirements, Fed. R. Civ. P. Supp. Rule A, C, E, and G, the constitutional
20 requirements, and the constitutional due process requirements of any forfeiture proceedings
21 concerning the \$50,000.00 in United States Currency.

22 11. OLIVER JAMES KWAN knowingly and voluntarily agrees to waive his right to a trial
23 on the forfeiture of the \$50,000.00 in United States Currency.

24 12. OLIVER JAMES KWAN knowingly and voluntarily agrees to waive (a) all
25 constitutional, legal, and equitable defenses to, (b) any constitutional or statutory double jeopardy
26 defense or claim concerning, and (c) any claim or defense under the Eighth Amendment to the United

1 States Constitution, including, but not limited to, any claim or defense of excessive fines or cruel and
2 unusual punishments in any proceedings concerning the \$50,000.00 in United States Currency.

3 13. OLIVER JAMES KWAN knowingly and voluntarily agrees to the entry of a Judgment of
4 Forfeiture of the \$50,000.00 in United States Currency to the United States.

5 14. OLIVER JAMES KWAN understands that the forfeiture of the \$50,000.00 in United
6 States Currency shall not be treated as satisfaction of any assessment, restitution, fine, cost of
7 imprisonment, or any other penalty that may be imposed on OLIVER JAMES KWAN in addition to
8 forfeiture.

9 15. OLIVER JAMES KWAN knowingly and voluntarily agrees to the conditions set forth in
10 this Settlement Agreement, Stipulation for Entry of Judgment of Forfeiture as to OLIVER JAMES
11 KWAN and Order ("Settlement Agreement").

12 16. OLIVER JAMES KWAN knowingly and voluntarily agrees to hold harmless the United
13 States, the United States Department of Justice, the United States Attorney's Office for the District of
14 Nevada, the United States Department of Homeland Security, the Department of the United States
15 Treasury, the Drug Enforcement Administration, their agencies, their agents, and their employees from
16 any claim made by OLIVER JAMES KWAN or any third party arising out of the facts and
17 circumstances of this case.

18 17. OLIVER JAMES KWAN knowingly and voluntarily releases and forever discharges the
19 United States, the United States Department of Justice, the United States Attorney's Office for the
20 District of Nevada, the Drug Enforcement Administration, the Department of the United States
21 Treasury, their agencies, their agents, and their employees from any and all claims, rights, or causes
22 of action of any kind that OLIVER JAMES KWAN now has or may hereafter have on account of, or
23 in any way growing out of, the seizures and the forfeitures of the property in the abandonment, the
24 civil administrative forfeitures, the civil judicial forfeitures, and the criminal forfeitures.

25 18. OLIVER JAMES KWAN knowingly and voluntarily acknowledges, understands, and
26 agrees that (a) federal law requires the Department of the United States Treasury and other disbursing

1 officials to offset federal payments to collect delinquent tax and non-tax debts owed to the United
2 States and to individual states (including past-due child support); (b) if an offset occurs to the payment
3 to be made pursuant to this agreement, they will receive a notification from the Department of the
4 United States Treasury at the last address provided by them to the governmental agency or entity to
5 whom the offset payment is made; (c) if they believe the payment may be subject to an offset, they
6 may contact the Treasury Department at 1-800-304-3107; (d) the terms of this settlement do not affect
7 the tax obligations fines, penalties, or any other monetary obligations owed to the United States or an
8 individual state; and (e) the exact sum delivered to David Z. Chesnoff, Esq. and Richard A. Schonfeld,
9 Esq., on behalf of him, may well be a lesser sum, if the Treasury Offset Program reduces the amount
10 in satisfaction of a debt obligation.

11 19. After the property is forfeited in the civil and criminal cases and the United States District
12 Court has signed the Settlement Agreement concerning the property, within a practicable time
13 thereafter for the United States, the United States agrees to release to OLIVER JAMES KWAN one
14 payment of \$12,500.00 in U.S. Currency less any debt owed to the United States, any agency of the
15 United States, or any debt in which the United States is authorized to collect, through David Z.
16 Chesnoff, Esq. and Richard A. Schonfeld, Esq. OLIVER JAMES KWAN knowingly and voluntarily
17 agrees to fill out the Department of the United States Treasury Automated Clearing House ("ACH")
18 form accurately and correctly and submit it to the United States Attorney's Office so that the payment
19 of the money can be disbursed by electronic fund transfer. OLIVER JAMES KWAN knowingly and
20 voluntarily agrees the \$12,500.00 in U.S. Currency may be offset by any debt owed to the United
21 States, any agency of the United States, or any debt in which the United States is authorized to collect.

22 20. Each party acknowledges and warrants that its execution of the Settlement Agreement is
23 free and is voluntary.

24 21. The Settlement Agreement contains the entire agreement between the parties.

25 22. Except as expressly stated in the Settlement Agreement, no party, officer, agent,
26 employee, representative, or attorney has made any statement or representation to any other party,

1 person, or entity regarding any fact relied upon in entering into the Settlement Agreement, and no
2 party, officer, agent, employee, representative, or attorney relies on such statement or representation in
3 executing the Settlement Agreement.

4 23. The persons signing the Settlement Agreement warrant and represent that they have full
5 authority to execute the Settlement Agreement and to bind the persons and/or entities, on whose behalf
6 they are signing, to the terms of the Settlement Agreement.

7 24. This Settlement Agreement shall be construed and interpreted according to federal
8 forfeiture law and federal common law. The jurisdiction and the venue for any dispute related to,
9 and/or arising from, this Settlement Agreement is the unofficial Southern Division of the United States
10 District Court for the District of Nevada, located in Las Vegas, Nevada.

11 25. Each party shall bear his/her/their or its own attorneys' fees, expenses, costs, and interest.

12 26. This Settlement Agreement shall not be construed more strictly against one party than
13 against the other merely by virtue of the fact that it may have been prepared primarily by counsel for
14 one of the parties; it being recognized that both parties have contributed substantially and materially to
15 the preparation of this Settlement Agreement.

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1 IT IS HEREBY CERTIFIED, pursuant to 28 U.S.C. § 2465(a)(2), that there was reasonable
2 cause for the seizure and forfeiture of the \$50,000.00 in United States Currency.

3 DATED: 9/30/13
4 Chesnoff & Schonfeld

5 
6 DAVID Z. CHESNOFF
7 Counsel for Oliver James Kwan

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9 DATED: 9/30/13
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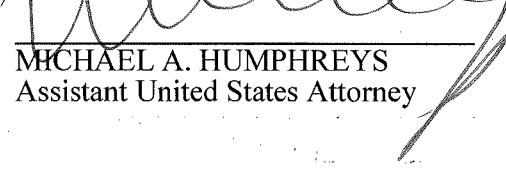
11 
12 OLIVER JAMES KWAN

13 DATED: 7/30/13
14 Chesnoff & Schonfeld

15 
16 RICHARD A. SCHONFELD
17 Counsel for Oliver James Kwan

18 DATED: 10-3-2013
19

20 DANIEL G. BOGDEN
21 United States Attorney
22 
23

24 MICHAEL A. HUMPHREYS
25 Assistant United States Attorney
26 

16 ORDER
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18

19 IT IS SO ORDERED:
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21 
22 UNITED STATES DISTRICT JUDGE
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24 DATED: October 8, 2013
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